

# **TEACHERS' RETIREMENT BOARD MEETING**

**NOVEMBER 16, 2007**

## **CALL TO ORDER**

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 3<sup>rd</sup> Floor, 2401 Colonial Drive, Helena, Montana.

## **BOARD MEMBERS PRESENT:**

Chairman, Tim Ryan  
Mona Bilden  
Scott Dubbs  
Darrell Layman  
Kari Peiffer  
James Turcotte

## **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Denise Pizzini, Legal Counsel  
Janet Cooper, Benefits Officer  
Dan Gaughan, Accounting/Fiscal Manager  
Bill Hallinan, Information Technology Manager  
Karla Scharf, Retired Payroll Manager  
Rita Karnopp, Executive Assistant

## **OTHERS PRESENT:**

Charlotte Thomas, Retired Teachers' Association  
Darrell Rud, State Administrators of Montana  
Tom Bilodeau, MEA-MFT  
Jerry Pauli, MASS  
Mark Olleman, Milliman  
David Ewer, Budget Director  
Madalyn Quinlan, OPI  
Kathy Bramer, OPI

## **CALL TO ORDER**

**ADOPT AGENDA** - Chairman Tim Ryan called the meeting to order at 8:30 am. He asked for additions or changes to the Agenda for November 16, 2007. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

**MOTION/VOTE:** Mr. James Turcotte moved that the agenda be approved. Seconded by Mr. Darrell Layman, the motion carried unanimously.

APPROVAL OF SEPTEMBER 21, 2007 MINUTES - Chairman Ryan called for changes to the September 21, 2007 Board Meeting Minutes. Mrs. Rau asked that Carol Van Liew's title be changed from Retired Benefits Specialist to Retired Benefits Technician. Chairman Ryan called for any other changes, finding none he called for a motion.

**MOTION/VOTE:** Mr. Darrell Layman moved that the minutes be approved as corrected. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items.

Mr. Darrell Rud, State Administrators of Montana, stepped forward and made comment that David Senn, Mark Olleman, and Scott Dubbs joined in a focus group on Thursday, November 15, 2007, to continue their discussion of how to make the system better for the future. He wanted to thank those individuals that have been willing to give of their time to discuss future needs, which he found to be extremely helpful.

Chairman Ryan noted the Board appreciated Mr. Rud's comments.

ACTUARIAL VALUATION - Mr. Mark Olleman, Milliman, presented the results of the 2007 Actuarial Valuation explaining that the System was actuarially sound with an unfunded actuarial accrued liability of \$768.9 million and amortization period of 28.6 years.

Mr. Jerry Pauli, MASS, shared his appreciation to the Board for their concerns and help making the system actuarial sound, and he liked what he was hearing from the TRS Board. He shared that the SAVAC Committee would be meeting in the spring and would share with the Board decisions that might impact the system. He talked about the complex issues of better education for teachers regarding average salaries and how that would affect the retirement system.

UPDATE ACTUARIAL FACTORS – Mr. Olleman recommended the service purchase factors, the optional allowance factors (A, B, and C), the certain and life reduction factors, and the present value annuity factors be updated to reflect the results of the most recent actuarial valuation.

Mr. Senn reminded the Board that previous changes to the optional retirement allowances and term certain factors have been effective with terminations after July 1 of the following year; therefore, members planning their retirement on June 30, 2008, would not be impacted by the changes. On the service purchases factors, Mr. Senn explained, the statutes require that the cost be based on the most recent actuarial valuations, so these changes would be effective December 1, 2007.

**MOTION/VOTE:** Mr. Turcotte moved to accept the changes to the optional retirement allowances and term certain factors for the retirement benefits effective July 1, 2008, and for the service purchase and present value annuity factors to be effective December 1, 2007. Seconded by Mrs. Mona Bilden.

Chairman Ryan asked if there was further discussion on this issue.

Mr. David Ewer, Budget Director, State of Montana, stated he didn't understand the motion on the table as what it may do to the financial impact to the fund.

Mr. Olleman answered that these factors are actuarially neutral; they are being updated so that future retirements won't have an actuarial impact on the system.

Mrs. Tammy Rau commented that based on Mr. Senn's summary, he wanted the effective date to be after July 1, 2008, and questioned whether the motion specified that.

Mr. Senn clarified the motion should read 'for the retirement benefits effective after July 1, 2008.'

**MOTION/VOTE:** Chairman Ryan asked for any further comments and if everyone understood the motion. Mr. Turcotte moved to amend his motion to accept the changes to the optional retirement allowances and term certain factors for retirement benefits effective after July 1, 2008, and for the service purchase and present value annuity factors to be effective December 1, 2007. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

Mr. David Ewer, Budget Director, commented to the Board how much the Governor's office appreciated the TRS Board's service. He pointed out that a year ago the TRS had a system that did not amortize the unfunded liabilities. However, this past year the TRS has had very good returns which was part of making the system actuarially sound. The other big component was that the general fund has stepped up to pick up the required contribution rate increase, and put \$150 million into the system, which is not likely to be a common occurrence. Mr. Ewer added that the people of Montana have made fantastic progress.

In listening to Mr. Olleman's actuarial valuation results, Mr. Ewer commented he hoped everyone was as impressed with the report as he was. He added that he had come on behalf of Governor Schweitzer to thank the Board for their service and for having the foresight and political courage to have a bill that was not uncontroversial to fix this problem and they appreciated the work it took to get this bill passed.

Chairman Ryan asked for questions or comments from the Board. Mr. Ryan complimented Mr. Ewer for the open dialog between the Board and the Governor's office.

Mrs. Peiffer commented that as a member of the TRS Board, a member of the TRS, and as a taxpayer of the State of Montana, that she applauds Governor Schweitzer for supporting the \$150 million cash infusion into the TRS.

In attempting to resolve the potential problems with the TRS, Mr. Scott Dubbs commented that the communications from Mr. Ewer's office as well as the Governor have been tremendous.

Mrs. Mona Bilden also added her appreciation for all that Mr. Ewer's office and Governor Schweitzer have done.

Mr. Turcotte commented that in the last several years that he has been on the TRS Board and BOI, that the understanding among the policy making people has been enhanced tremendously.

#### BOARD OF INVESTMENTS REPORT:

House Bill 771 Presentation – With respect to House Bill 771, passed by the 2007 Legislature, Mr. Cliff Sheets and Mr. Carroll South, Board of Investments, presented the asset allocation of the TRS, the past and expected investment performance, goals and strategies, together with a comparison of the Montana TRS' investment performance with other states.

#### EXECUTIVE DIRECTOR'S REPORT

Technology Coordinator – Mr. Senn shared the results of a Technology coordinator survey. Mr. Senn informed the Board that this survey had been randomly mailed out to forty school districts and to date he had received twenty responses.

Mr. Senn concluded that it appeared that most schools were reporting their technology coordinators correctly, but asked if any Board members familiar with these positions wanted to review the surveys received.

Mr. Dubbs noted that this was an ever changing situation that has changed much in the last five years. Mr. Senn informed the Board that he would continue to address these positions on an individual bases and present them to the board as questions arose.

Annual Per Diem Election Form - Mr. Senn explained that each year members of the TRS Board who are also public employees (teachers and administrators) who receive both the \$50 per diem while serving as a Board member and their regular salary for an overlapping period, must file a Multiple Public Employment Disclosure Form by December 15, 2007. He asked any board member needing to complete the disclosure form to contact him as soon as possible.

EXECUTIVE SUMMARY – Mr. Senn informed the Board that the Legislative Auditor's Office had completed the financial audit of the Teachers' Retirement System for fiscal year 2007. The TRS audit contained an unqualified opinion with no recommendations and would be heard by the Legislative Audit Committee on November 28, 2007.

SAVA COMMITTEE – Mr. Senn reported that The SAVA Committee met on October 21, 2007, to hear the stakeholders opinions of what changes needed to be made to Montana's public retirement systems. The school administrators and the school board associations announced that they intended to hire an outside actuary to study the TRS and look for ways to enhance the system to allow members to receive benefits and continue working full-time.

MEA-MFT recommended the SAVA Committee support the Professional Retirement Option (PRO) for the TRS. This proposal would provide a higher multiplier (2.0%) to anyone age 55 with 30 or more years of service in the TRS. This proposal would require a 2.0% increase in the employer contribution rate. MEA-MFT also proposed an additional 1.0% to 1.5% increase in the ORP contribution rate, from 13% to 14% or 14.5% of salary, funded by a \$50 Million lump sum contribution to the TRS and a corresponding reduction in the current MUS supplemental contribution rate.

On behalf of the Board, Mr. Senn recommended the committee draft legislation to create a "Money Purchase" defined benefit plan for all teachers and administrators first hired after July 1, 2009.

Since the SAVA Committee met, the administrators have held two focus group meetings to better understand the funding constraints of the TRS and the cost of benefit enhancements. The groups seem to agree that 25-year retirement has contributed to the current shortage of teachers and administrators and that they would like to find a way to allow retirees to continue to be employed in a TRS covered position and receive full retirement benefits.

Mr. Dubbs pointed out he felt this was the first meeting he had attended that the 'normal cost' started to click. Mr. Olleman did a great job of providing a couple different options and looking at different things, but brought it back to the 10.4%, or the 'normal cost,' which was what they were talking about.

Mr. Ryan stated that somehow they need to come up with a proposal that would increase the contribution from the participant as well as the public system. Mr. Dubbs responded that he felt the focus group recognized that.

#### LEGAL COUNSEL REPORT:

CASE UPDATES: Denise Pizzini informed the Board that in the William Colter matter, Mr. Colter court filed his appeal of the Board's determination to deny benefits. Paul Johnson, Agency Legal Services Division at the Department of Justice, has been appointed the Hearing Officer.

Merle J. Farrier – Ms. Pizzini informed the Board that Merle J. Farrier filed a third appeal to the Montana Supreme Court. The record in the case was transmitted to the Supreme Court on October 31, 2007, and Mr. Farrier has 30 days from that date to file his brief of support of his appeal and then the TRS will have 30 days following receipt of that to file a response brief.

#### INDIVIDUAL PETITIONS:

Michael Laden – Mr. Laden's appeal of his retirement effective date had been tabled at the September 21, 2007, board meeting, in order to gather additional information. Mr. Senn reported that they have learned that Mr. Laden's resignation was acted upon by the School District Board of Trustees on May 10, 2007, with an effective resignation date of May 31, 2007; he was not paid for June 1, 2007, and did not perform any services after May 31, 2007. In addition, he received the full employer paid insurance premium of \$393 for the months of June, July, and August.

Chairman Ryan asked for discussion on the issue.

Mr. Dubbs commented that this was truly a manipulation of the system for an extra check, regardless of this outcome. He added that it was his opinion that the Board should have some language to prevent this from happening. Mr. Dubbs added that he thought the Board really needed to have legislation that would prevent this from happening in the future.

Mr. Turcotte stated that in Mr. Laden's case, he retired because he had some health issues he needed to attend to. Mr. Dubbs responded that was why they had sick leave. He added his concern was that this opened a huge door. When looking at the last few days of a member's contract, we need to assume that there are parts of this decision that are driving at their financial gain, and the Board should not give them that loophole.

Mr. Ryan asked what it would require to implement a fix to this situation. Mr. Senn responded that it would take legislature to adopt a new policy in the determination of retirement effective dates.

Mr. Layman commented that if a resignation occurred in the last fifteen days of a school year, then the date of determination would be the last day of school. There could be some logical things in this language that could be straight forward.

Mr. Layman asked if the insurance benefits were a contributory amount. Mr. Senn answered that the figure was how much the district contributed each month. Mr. Layman asked if Mr. Laden had to match those insurance funds. Mr. Senn responded that he was not sure if there was an employee match. Mr. Dubbs pointed out that he did ask that in September and his comment was that he paid a contribution out of his pocket.

Chairman Ryan asked if there was any public comment on this issue.

Mr. Tom Bilodeau, MEA-MFT, representing Mr. Laden, addressed the Board. He stated that regarding the insurance payments, the school district paid \$395 a month, and Mr. Laden was covered under a two-person enrollment policy and he believed the premium on that was about \$450 a month and Mr. Laden did pay the difference for those months in question. Mr. Bilodeau added that it was also common in most of the districts and was exclusively covered in many contracts, not in Cut Bank, that summer time employer contributions will be paid by the school district based on the prior year employment. He added, just as you earn your salary over a contract year, you also earn the associated benefits paid for by the district. That is common and he checked with Cut Bank to see if this was true in most cases where people were leaving, and they verified that this was the practice in the past.

Mr. Bilodeau reiterated that Mr. Laden had complied with a retirement date of May 31, 2007, and there were six members last year, between January and June, who retired prior to the end of the school year. In this case, Mr. Laden decided to retire the end of May, and there was nothing in the contract locally that prohibited him from doing that. Cut Bank School's contracts explicitly provided a provision allowing for prorating the pay based on the number of days completed in a contracted year. Everything Mr. Laden did was by the book, even though we may have some concerns about whether or not the practice should be modified by some future legislation.

Mr. Dubbs added that what made Mr. Laden's issue different than others was that the information from the school was not conclusive. Their letters were in conflict with each other; therefore, the Board could not make a decision based on specific information provided.

**MOTION/VOTE:** Mr. Turcotte moved to accept Mr. Michael Laden's retirement effective date of June 1, 2007. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

**Harry Fritz** – Request to Change Retirement Option:

Mr. Senn shared with the Board that when Mr. Fritz began his retirement process he was in the process of finalizing a divorce, which ended in a property settlement agreement that stipulated he would elect Option A for his retirement. However, in the meantime he had already filed his application for retirement electing Option C. Allowing him to change retroactive to his retirement effective date of June 1, 2007, will have no adverse actuarial impact on the TRS funding. Mr. Fritz has agreed to repay the benefits overpaid, and to rewrite the Family Law Order.

Ms. Pizzini clarified there will be appropriate paperwork to make clear the conditions on which this election change was allowed, so that we do not set a precedence to anyone who requests to do this in the future.

**MOTION/VOTE:** Mr. Dubbs moved to approve Mr. Fritz's petition to change his Option C to Option A on his application for retirement benefits retroactive to his retirement effective date of June 1, 2007, conditioned upon Mr. Fritz repaying the benefits overpaid, amending the Family Law Order, and signing the appropriate agreements to be drafted by Legal Counsel. Seconded by Mrs. Peiffer, the motion carried unanimously. Mr. Turcotte abstained because Mr. Fritz was his client.

**TRS ASSIGNMENT FOR OPI POSITIONS:** The Office of Public Instruction was appealing staff's determination that Middle School/At Risk Curriculum/Content Specialist positions must be members of the Teachers' Retirement System. Mr. Senn advised the Board that he was hesitant to recommend a change in policy that would change directions without a corresponding change in statute. Mr. Senn suggested that TRS needed to work with the OPI, as the Superintendent suggested in her letter, and try to come up with something that will help resolve this problem, come back to the Board, and then go to the legislature if necessary. Through legislation the TRS could make sure this change didn't affect anyone who was currently a member of the TRS.

Kathy Bramer, Personnel Director OPI, presented to the Board the assignment of positions of the PERS and the TRS, explaining instructional coordinator positions used to be called education specialists, how jobs were classified, and pointed out that people who work in those positions work with education and educators and seldom do they work with students. The OPI changed their title to go with the needs. These positions are state employees and their pay structure compares with other state employees, and they do not compare to the teacher salary structure.

Almost all instructional coordinators, who used to be called education specialists, work in her office. Currently the OPI has 42 band 6 instructional coordinators. Of those 42 positions, 20 are PERS and 15 are TRS, 7 are vacant. Five of the seven vacant positions are curricular specialists. The OPI did not send those positions to the TRS to be assigned to a retirement system; the OPI had already decided they were PERS positions. Ms. Bramer asked that these instructional coordinator positions be classified as PERS.

Ms. Bramer reviewed with the Board the list of the many positions that teachers could apply for that would fall under the PERS. She shared that there was a lot of gray area regarding whether a position should be accountable to the TRS or the PERS, and the difficult issue comes to play when these positions require teaching skills and educational background, but still would fall under the description of instructional coordinator. People taking or applying for these positions should be able to continue to receive TRS retirement benefits, and continue to work in these other position in state government without it affecting their TRS retirement benefit. These folks are not trying to work around the system, but are people looking for a new career as a Montana state employee.



Ms. Bramer concluded that it was increasingly difficult to justify assignment of OPI staff positions to the TRS system. As state government employees, the agency staff provides support and advice to educators across Montana, but do not serve in a teaching capacity in the schools. The OPI staff spends minimal time in the classroom providing teaching or instructional services. The language in §19-20-302, MCA needs clarification as it applies to OPI positions, but particularly as it applies to the OPI Instructional Coordinators and the Curriculum/Content Specialists.

Further, Ms. Bramer stated that the assignment of these instructional curriculum positions to the TRS systems had disproportionately affected those retired educators who were most qualified to fill these positions, without it affecting their TRS retirement benefits.

Ms. Bramer asked the Board to decline the assignment of the OPI Content Specialist to the TRS system because they do not meet the standard set in the statutory language. She asked that the Board direct the TRS staff to follow the same interpretation and decline assignment of all newly vacated or created OPI instructional coordinator positions effective immediately. Ms. Bramer asked that the Board agree to work with her to draft amendatory language to clarify the TRS membership requirements as they apply to OPI positions under §19-20-302, MCA.

Mr. Senn asked Ms. Bramer how many seasonal instructional coordinators or specialist positions were assigned to the PERS and how many were assigned to the TRS. Ms. Bramer answered that most of the folks were TRS members. Those that were not retired TRS were classified as being accountable to the TRS and those that were TRS retirees were classified accountable to the PERS.

**MOTION/VOTE:** Mr. Scott Dubbs moved to table this appeal until the next Board meeting, allowing time to acquire more information. Seconded by Mr. Turcotte.

Mr. Layman questioned whether the Board really wanted to table this appeal.

Mr. Dubbs stated he did understand the problem that the OPI was having with this issue, and he felt it was a legitimate problem and not unreasonable that the OPI would be able to provide a position that a teacher could retire to with full benefits. Mr. Dubbs added that a possible solution might be to pay money as an incentive for them to move over to the OPI and still maintain their membership with the TRS.

Chairman Ryan asked Mr. Dubbs if he would like to amend his motion.

**AMENDED MOTION/MOTION/VOTE:** Mr. Scott Dubbs moved to amend his previous motion to table this appeal, but during the time of tabling Ms. Bramer and Mr. Senn meet and work together to present a proposal to resolve this issue at the next Board meeting. Seconded by Mr. Turcotte, the motion carried unanimously

**OTHER BUSINESS:**

**2008 Meeting Dates** – Mr. Senn proposed to the Board February 8, May 9, September 5, and November 12 as the four dates tentatively scheduled for the 2008 TRS Board meetings.

Mr. Ryan asked if anyone would have a problem with moving the February 8 date to February 15, and found no opposition.

**MOTION/VOTE:** Mr. Turcotte moved to approve February 15, May 9, September 5, and November 12 as tentative dates for the 2008 TRS Board meetings. Seconded by Mrs. Peiffer, the motion carried unanimously.

**Out of State Travel** – Mr. Senn asked the Board to approve out-of-state travel requests to send Bill Hallinan to the PRISM conference, April 26 -30 in Miami, FL, Tammy Rau to attend the GFOA Annual Conference, June 12-19 in Ft. Lauderdale, FL, and for Dave Senn to attend the NCTR Legislative Committee Meeting in Washington, DC.

**MOTION/VOTE:** Mr. Turcotte moved to approve the out of state travel requests. Seconded by Mr. Layman, the motion carried unanimously.

**Personnel Report** – Mr. Dubbs shared with the Board that the Personnel Committee met with Mr. Jim Kerins on November 15, 2007. They reviewed the feedback they received from Board members and staff on Mr. Senn's performance survey and went through the evaluation process. Mr. Dubbs suggested that in the future this discussion item should be listed as a closed meeting agenda item.

Mr. Dubbs shared their recommendations as committee members on how to change the tool for the 2008 appraisal and how they would use it in the future. He reviewed the changes they made for next year. Mr. Dubbs commented that the committee felt Mr. Senn had a very strong evaluation and they felt confident in what the survey said, and that they felt Mr. Senn was doing the job and his evaluation reflected that. Mr. Dubbs informed the Board they would receive a copy of Mr. Senn's evaluation.

**MOTION/VOTE:** Mrs. Bilden moved to accept the Personnel Committee's Report. Seconded by Mrs. Peiffer, the motion carried unanimously.

**Financial Report** - Mr. Dan Gaughan presented the financial report to the Board. He shared that the investment earnings was less this time of year/compared to that of last year because of the \$22 million in security gains last year that we didn't have this year. Mr. Gaughan shared with the Board that the 'investment revenue paid administrative expenses' was quite a bit higher, due to contracted services which was due to Alfred doing a lot of work on our web estimator project year to date so far. The increase to the 'administrative investment expense' was caused by the extensive use of external asset managers. 'Amortization expense' showed a monthly charge on a monthly basis amortizing our software assets.

Budget Report – Mr. Gaughan stated the budget report was running close to budget.

Delinquency Agency Report – Alzada and Boyd schools have closed and are no longer active. They were current when they closed. Mr. Gaughan reported he was trying to contact Cook City, Malmborg, and Miami schools for contributions.

NCTR Annual Conference Report – Mr. Senn shared with the Board that he and Mr. Ryan attended this year's NCTR annual conference in Scottsdale Arizona. He shared that this year's conference spent a great deal of time discussing Financial Economics, which if adopted for public plans, as promoted by some economists, would require a significant increase in contribution rates.

Mr. Ryan added that it was an excellent conference, very well presented and worth going to.

#### CLOSED MEETING

Chairman Ryan directed the meeting closed at 2:50 p.m. to review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

#### OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 2:56 p.m.

**MOTION/VOTE:** Mrs. Peiffer moved to approve the disability application for Polly A. Maynard. Seconded by Mrs. Bilden, the motion carried unanimously.

**MOTION/VOTE:** Mrs. Peiffer moved to approve the disability application for Charles E. Petersen. Seconded by Mr. Dubbs, the motion carried unanimously.

#### ADJOURNMENT

There being no further business, the meeting was adjourned at 3:10 p.m.

Chairperson \_\_\_\_\_

Executive Director \_\_\_\_\_